

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JEAN MARC DESMARAT,

Plaintiff,

vs

9:08-CV-977

DALE ARTUS, Superintendent; LINDA TURNER,
Deputy Superintendent/Program; MICHAEL R.
VINCENT, Correction Officer; and JOHN DOE,
APPU Inmate/Law Library Clerk, All of Clinton
Correctional Facility,

Defendant.

APPEARANCES:

OF COUNSEL:

JEAN MARC DESMARAT
03-A-6318
Clinton Correctional Facility
P.O. Box 2001
Dannemora, NY 12929

HON. ANDREW M. CUOMO
Attorney General of the
State of New York
Attorney for Defendants
Department of Law
The Capitol
Albany, New York 12224

CHRISTOPHER W. HALL,, ESQ.
Asst. Attorney General

DAVID N. HURD
United States District Judge

DECISION and ORDER

Plaintiff, Jean Marc Desmarat, brought this civil rights action in September 2008, pursuant to 42 U.S.C. § 1983. By Report-Recommendation dated September 16, 2009, the Honorable Randolph F. Treece, United States Magistrate Judge, recommended defendants'

motion (Docket No. 17) be denied, and that defendants be directed to file a response to plaintiff's complaint. No objections to the Report-Recommendation have been filed.

Based upon a careful review of the entire file and the recommendations of Magistrate Judge Treece, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. 636(b)(1).

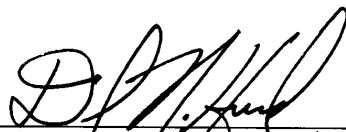
Accordingly, it is

ORDERED that

1. Defendants' motion for summary judgment is DENIED;
2. The Magistrate Judge's recommendation that defendants be directed to file a response to the plaintiff's complaint is moot since an answer has been filed. (Docket No. 35).

IT IS SO ORDERED.

Dated: September 30, 2009
Utica, New York.


United States District Judge